

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

UNITED STATES OF AMERICA,)	CASE NO.
Plaintiff)	1:16-CR-00082-03-YK/MCC
vs.)	
SCOTT LANE,)	
Defendant)	
_____)	

TRANSCRIPT OF CHANGE OF PLEA HEARING
BEFORE THE HONORABLE MARTIN C. CARLSON
UNITED STATES MAGISTRATE JUDGE
11 JANUARY 2018 - 10:46 A.M.

APPEARANCES:

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P R O C E E D I N G S

THE COURT: Please be seated. Good afternoon.

MS. TAYLOR: Good afternoon, Your Honor.

THE COURT: You're accompanied by someone?

MS. TAYLOR: I am, Your Honor.

MR. BERRY: Not exactly.

THE COURT: And who would it be that is joining you?

MS. TAYLOR: This is, Mr. Berry, Your Honor, my
co-counsel in this case, and he is a trial attorney from the
Department of Justice, the Child Exploitation and Obscenity
Section.

THE COURT: Welcome to the Middle District of
Pennsylvania.

MR. BERRY: Thank you, Your Honor. Good to be with
you.

THE COURT: Mr. Lord, hello. How are you today?

MR. LORD: I'm well, Your Honor. Pleased to see you.

THE COURT: Mr. Lane, good morning.

THE DEFENDANT: Good morning.

THE COURT: This is the case of United States versus
Scott Lane. It is this court's criminal number 1-16-CR-82.
Mr. Lane, I've been told that you signed a plea agreement today
and that you intend to plead guilty to a number of charges in
this indictment. Is that your understanding of what you plan
to do here today?

1 THE DEFENDANT: Yes.

2 THE COURT: Then you and I are beginning at the same
3 place, which is always a good way for a court proceeding to
4 begin. This case, as you know, is assigned to District Judge
10:48AM 5 Yvette Kane, but Judge Kane has asked me to spend a little time
6 with you today discussing this case, discussing your rights in
7 connection with these charges, going over the plea agreement,
8 and making sure that yours is a voluntary plea, that has a
9 basis in fact, and contains all the elements of the offenses
10:48AM 10 charged against you.

11 To do that we'll have to ask you a number of
12 questions, but because I am not the judge who would be
13 sentencing you, that would be Judge Kane, before I could pose
14 these questions to you, you would have to consent, you'd have
10:48AM 15 to agree to allow me to ask you these questions. Are you
16 willing to allow me to pose these questions to you to make sure
17 that yours is a voluntary plea, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Thank you, sir. I appreciate that. Now,
10:49AM 20 before I can recommend that Judge Kane accept any guilty plea
21 in this case, as I have noted for you it will be necessary for
22 me to ask you a series of questions to make sure that you have
23 a complete understanding of the charges, the penalties, the
24 plea agreement, and all the consequences of your plea, all to
10:49AM 25 ask questions to make sure that yours is a voluntary plea with

1 a basis in fact.

2 To do that I will be placing you under oath in just a
3 moment, and you should understand that there would be criminal
4 penalties for giving me a deliberate false answer under oath.

10:49AM 5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Because your answers to the questions that
8 I will be posing to you are so very important, if I ask you a
9 question and if you don't understand my question, please ask me
10:49AM 10 to repeat it. Okay?

11 THE DEFENDANT: Got it.

12 THE COURT: Very well. Because if I pose a question to
13 you and you answer it, I'm going to operate with the assumption
14 that you both understood my question and were confident that
10:50AM 15 you could give a truthful answer. Is that fair?

16 THE DEFENDANT: Yes.

17 THE COURT: Moreover, if I ask you a question and you
18 think to yourself "I'd like to discuss that question with
19 Mr. Lord," just let know and we'll give you all the time you
10:50AM 20 need for that purpose. Okay?

21 THE DEFENDANT: Okay.

22 THE COURT: Mr. Neary, would you administer the oath?
23 (The defendant was sworn by the courtroom deputy.)

24 EXAMINATION BY THE COURT:

10:50AM 25 Q. Could you state your full name for the record?

1 A. Scott Michael Lane.

2 Q. And I take it you read, write, and converse in English?

3 A. Yes.

4 Q. How far did you go in school?

10:50AM 5 A. A partial master's.

6 Q. How old are you sir?

7 A. Thirty-four.

8 Q. Have you ever been treated for drug or alcohol addiction
9 or any form of mental illness?

10:50AM 10 A. No.

11 Q. And have you had any drugs or alcohol before coming here
12 today?

13 A. No.

14 Q. Are you taking any prescription medication that affects
10:51AM 15 your understanding of what we're doing here today?

16 A. No.

17 Q. And all things considered, are you feeling okay today?

18 A. Yes.

19 Q. And do you understand that today is the day set for a
10:51AM 20 guilty plea by you to a number of charges contained in the
21 superseding indictment in this case. Do you understand that?

22 A. Yes.

23 Q. You've been represented by Mr. Lord, who is well known to
24 this court. So far are you satisfied with the representation
10:51AM 25 you have received in this matter?

1 A. Yes.

2 Q. Now, Mr. Lane, you're entitled to a jury trial in this
3 case, and by pleading guilty you'll be giving up forever that
4 jury trial right. So what I would like to do is spend a few
10:51AM 5 minutes with you talking about the nature of that right so that
6 you and I have a common understanding of what it is you've
7 decided to give up.

8 You are entitled to a jury trial in this matter, and
9 at a jury trial you, through counsel, would help select the
10:51AM 10 twelve jurors who would hear the case. At a trial and in any
11 subsequent proceeding the government would have the
12 responsibility of proving your guilt beyond a reasonable doubt.
13 You would be presumed innocent. Do you understand that?

14 A. Yes.

10:52AM 15 Q. And do you understand that the government's burden of
16 proof of proof beyond a reasonable doubt is a burden of proof
17 that the government would have to carry on each element of the
18 offenses charged against you. Do you understand that?

19 A. Yes.

10:52AM 20 Q. And that any verdict returned by the jury would have to be
21 unanimous. That is, all twelve jurors would have to agree that
22 the government carried it burden of proof beyond a reasonable
23 doubt on all the elements of the offenses charged against you.
24 Do you understand that?

10:52AM 25 A. Yes.

1 Q. In a trial setting, Mr. Lane, you would have the right to
2 file pretrial motions seeking to suppress evidence or seeking
3 to dismiss charges or seeking other relief, and indeed I
4 believe given the nature of this plea agreement those motions
10:52AM 5 have been filed in this chase, is that correct?

6 MR. LORD: Correct, Your Honor.

7 Q. So you understand in a trial setting you have these
8 rights?

9 A. Yes.

10:53AM 10 Q. And, furthermore, in a trial setting, at the time of trial
11 you, through counsel, could cross examine government witnesses
12 and challenge government evidence before the jury. Do you
13 understand that?

14 A. Yes.

10:53AM 15 Q. In addition, at a trial you, through your counsel, could
16 subpoena witnesses and evidence and present them as part of
17 your defense in court. Do you understand that?

18 A. Yes.

19 Q. And at a trial you could testify, providing your account
10:53AM 20 of what happened here, although you could never be required to
21 testify, and if you chose not to testify your silence could
22 never be held against you. Do you understand that?

23 A. Yes.

24 Q. Do you understand that by pleading guilty subject only to
10:53AM 25 the conditional aspects of this plea you will be giving up all

1 of these trial rights and your guilt will be established by
2 what you say here today and there will be no trial in this
3 matter? Do you understand that?

4 A. Yes.

10:53AM 5 Q. With that understanding is it your desire to give up your
6 right to trial and to plead guilty to these offenses?

7 A. Yes.

8 Q. There is a plea agreement in this matter. And, Mr. Neary,
9 I don't know if you have a copy?

10:54AM 10 COURTROOM DEPUTY: That's the only copy, Your Honor.

11 Q. You've given me the only copy. I'm going to turn the only
12 copy to you and I'm going to ask Mr. Neary to show you a copy
13 of that plea agreement, and we'll direct your attention to the
14 last pages of the agreement. There is on the last page of the
10:54AM 15 agreement a heading that says, "Acknowledgment: I have read
16 this agreement and carefully reviewed every part of it with my
17 attorney. I fully understand it and I voluntarily agree to
18 it." And then there's a signature. Whose signature is that?

19 A. That is mine.

10:54AM 20 Q. And did you in fact review the entire agreement with your
21 attorney before you signed this?

22 A. Yes.

23 Q. And did you feel like you had enough time to go over the
24 agreement with Mr. Lord before you signed it?

10:55AM 25 A. Yes.

1 Q. And did Mr. Lord answer every question that you might have
2 had regarding that agreement?

3 A. Yes.

4 Q. I'm going to ask the government to summarize for us the
10:55AM 5 plea agreement. Understanding that of course every paragraph
6 in the agreement is important, I want you to focus on what the
7 government will provide to us as a summary of the agreement and
8 pay close attention, because when the government gets done
9 summarizing the agreement I'm going to ask if that's the
10:55AM 10 agreement you have with the United States. Okay?

11 A. Okay.

12 MS. TAYLOR: Thank you. Your Honor, in this written
13 plea agreement Mr. Lane is agreeing to plead to each of the
14 counts that he is charged with in the superseding indictment.
10:55AM 15 Paragraph 1 indicates that he will plead to Count 9 of the
16 superseding indictment, which charges him with sexual
17 exploitation of children, that is the production of child
18 pornography, and it indicates the maximums for that offense is
19 a period of imprisonment of thirty years, a fine of \$250,000, a
10:56AM 20 lifetime of supervised release, and a special assessment of a
21 hundred dollars, and an additional assessment of \$5,000.

22 Paragraph 2 indicates that he'll plead guilty to
23 Count 10 of the superseding indictment, which charges criminal
24 conspiracy to produce child pornography. The penalties are
10:56AM 25 thirty years, the maximum penalty are thirty years

1 imprisonment, a fine of \$250,000, up to a lifetime of
2 supervised release, and the same special assessment of \$5,100
3 and a fine of \$250,000.

4 Paragraph 3 indicates that he will plead guilty to
10:56AM 5 Count 11 of the superseding indictment, which is criminal
6 conspiracy to receive and distribute child pornography. The
7 maximum penalty for that offense is imprisonment up to twenty
8 years, a fine of \$250,000, up to a lifetime of supervised
9 release, and assessments of \$5,100.

10:57AM 10 Paragraph 4 indicates that he will plead guilty to
11 Count 12 of the superseding indictment, which charges receipt
12 and distribution of child pornography. The maximum penalty for
13 that offense is imprisonment for up to twenty years, a fine of
14 \$250,000, a lifetime of supervised release, up to a lifetime of
10:57AM 15 supervised release, and a special assessment of \$5,100.

16 And paragraph 5 indicates that he will plead guilty
17 to Count 13 of the superseding indictment, which charges
18 criminal conspiracy to publish a notice or advertisement
19 seeking child pornography. The maximum penalty for that
10:57AM 20 offense is listed in paragraph 5 and states that it is thirty
21 years imprisonment, a fine of \$250,000, up to a lifetime of
22 supervised release, and assessments of \$5,100.

23 And finally paragraph 6 indicates that Mr. Lane will
24 plead guilty to Count 14 of the superseding indictment, which
10:58AM 25 charges the substantive offense of publishing a notice or

1 advertisement seeking child pornography and lists the maximum
2 penalties for that offense as thirty years imprisonment, a fine
3 of \$250,000, up to a lifetime of supervised release, and
4 assessments of \$5,100.

10:58AM 5 Paragraph 8 goes on to list the mandatory minimum
6 sentences associated with each of those counts that Mr. Lane is
7 pleading guilty to and advises Mr. Lane that Counts 9, 10, 13,
8 and 14 carry mandatory minimum periods of imprisonment of
9 fifteen years for each of those counts, and Counts 11 and 12
10 carry mandatory minimums of five years of imprisonment on each
11 count.

12 Paragraph 10 of the plea agreement indicates that
13 the maximum sentence for all the charges is a period of
14 imprisonment of up to 160 years of imprisonment, fines of
10:59AM 15 \$1,500,000, up to a lifetime of supervised release, and
16 assessments of \$30,600.

17 Moving on to paragraph 17, Your Honor, the plea
18 agreement does state that if the defendant adequately
19 demonstrates acceptance of responsibility, the government will
10:59AM 20 recommend a two level departure for that acceptance of
21 responsibility.

22 Paragraph 25 addresses specific restitution issues in
23 this case and states that the defendant agrees to make
24 restitution to Victim One in the amount of \$50,000.

10:59AM 25 And paragraph 26 indicates that the defendant agrees

1 to allow the Court to determine appropriate restitution for
2 other identifiable victims of images of child pornography.

3 Paragraph 31 states that of course the Court is not
4 bound by the terms of this agreement and that the Court is of
11:00AM 5 course free to sentence the defendant up to the maximum terms
6 of imprisonment that are listed in the agreement.

7 Paragraph 40 in the plea agreement does discuss the
8 sexual offender registration requirements that the defendant
9 will be subject to upon his release from prison.

11:00AM 10 And paragraph 41 lists the potential civil commitment
11 consequences of this plea agreement, that the defendant may be
12 determined to be a sexually dangerous person and may face civil
13 commitments following his imprisonment.

14 And finally, Your Honor, paragraph 44 on page 35 does
11:01AM 15 address that this plea agreement is a conditional plea, as the
16 Court has noted earlier, and that the defendant is reserving
17 the right to appeal the adverse determinations that were made
18 by the district court regarding the pretrial motions that have
19 been filed, that were previously filed and ruled on by Judge
11:01AM 20 Kane.

21 THE COURT: Very well. Mr. Lord, is that a fair
22 summary of the plea agreement?

23 MR. LORD: It is, Your Honor. And just to amplify
24 paragraph 44, Your Honor, my client is not waiving any right to
11:01AM 25 file an appeal from the sentence that is imposed. So he hasn't

1 waived his appeal rights in that regard.

2 THE COURT: In looking at that paragraph I did not
3 see any waiver of appellate right. I saw the conditional
4 preservation of appeal rights relating to suppression issues.

11:01AM 5 So then as I understand it this defendant, Mr. Lane, preserves
6 the right to appeal certain adverse rulings on pretrial motions
7 and would preserve the right to appeal any sentence. Do the
8 parties agree that that is the nature of the appellate rights
9 preserved under this agreement?

11:02AM 10 MR. LORD: Yes, Your Honor.

11 MS. TAYLOR: Yes, Your Honor.

12 THE COURT: Very well.

13 BY THE COURT:

14 Q. Mr. Lane, is that a fair summary of the agreement you have
11:02AM 15 with the United States?

16 A. Yes.

17 Q. Other than the terms that are set forth in the written
18 plea agreement and those that have been outlined and discussed
19 here today in open court, has anyone promised you or offered
11:02AM 20 you anything to get you to plead guilty?

21 A. No.

22 Q. Has anyone threatened you or any member of your family or
23 anyone close to you to get you to plead guilty?

24 A. No.

11:02AM 25 Q. Can I rest assured that you're pleading guilty to those

1 offenses because you are in fact guilty of this crime?

2 A. Yes.

3 Q. And on that score do you understand that no one can
4 guarantee what sentence Judge Kane will impose in this case?

11:02AM 5 Do you understand that?

6 A. Yes.

7 Q. There are recommendations in the plea agreement relating
8 to things such as acceptance of responsibility, but those are
9 recommendations only and they're not binding on Judge Kane.

11:03AM 10 Do you understand that?

11 A. Yes.

12 Q. And do you understand that you'll be entering a guilty
13 plea to a number of felony offenses, and as a result you may
14 lose certain civil rights such as the right to vote, the right
11:03AM 15 to hold public office, the right to serve on a jury, the right
16 to possess a firearm, the right to obtain certain federal
17 benefits, and the right to obtain certain professional
18 licenses. Do you understand you could lose those by virtue of
19 your conviction on these charges?

11:03AM 20 A. Yes.

21 Q. Are you a United States citizen, Mr. Lane?

22 A. Yes.

23 Q. I'm not doubting that in the least, but I'm obliged
24 whenever someone pleads guilty in front of me to a serious
11:03AM 25 charge, like the charges set forth in this indictment, to

1 notify you that if you were not a citizen, one consequence of a
2 guilty plea is that you could be deported from the United
3 States following service of any sentence. Do you understand
4 that?

11:04AM 5 A. Yes.

6 Q. And I want to spend a moment or two just going over a
7 matter that was highlighted by Ms. Taylor and making sure you
8 and I have a common understanding of what the penalties are for
9 these various offenses. Counts 9 and 10 charge you in Count 9
10 with production of child pornography, and in Count 10 with
11 conspiracy to produce child pornography, in violation of Title
12 18 of the U.S. Code, Section 2251(a) and 2251(e).

13 Each of these offenses in the event of a conviction
14 would carry a mandatory minimum fifteen year jail sentence, and
15 up to thirty years in prison. And each of these offenses would
16 have a maximum fine of \$250,000. Each of these offenses would
17 also entail a term of supervised release that could be as long
18 as your natural life, and that term of supervised release would
19 be served after any period of imprisonment, and then each of
20 these offenses carry special assessments totaling \$5,100. Do
21 you understand that?

22 A. Yes.

23 Q. Counts 11 and 12 of the indictment charge you with
24 conspiring to receive and distribute child pornography and
25 receipt and distribution of child pornography, in violation of

1 Title 18 of the U.S. Code, Section 2252(a)(2). Each of these
2 offenses carries a mandatory five years in prison, and up to
3 twenty years in prison. Each of these offenses also carry a
4 maximum fine of \$250,000. Moreover, each of these offenses is
11:05AM 5 punishable by a lifetime term of supervised release, and each
6 of these offenses also carry a special assessment of \$5,100.
7 Do you understand that?

8 A. Yes.

9 Q. Counts 13 and 14 of the superseding indictment then charge
11:06AM 10 you with conspiring to publish a notice or advertisement
11 seeking child pornography and then causing the publication of
12 such a notice seeking child pornography. These charges are
13 brought against you under Title 18 of the U.S. Code, Section
14 2251(d) and (e), and each of these offenses carries a mandatory
11:06AM 15 fifteen years in prison and up to thirty years in prison, fines
16 of up to \$250,000, a lifetime term of supervised release, and
17 an assessment of \$5,100. Do you understand that?

18 A. Yes.

19 Q. So for our purposes here today it is very important that
11:06AM 20 you and I recognize that the total combined maximum penalty you
21 could face would be as much as 160 years in prison, fines of
22 \$1,500,000, a lifetime term of supervised release, and special
23 assessments totaling \$30,600. Do you understand that?

24 A. Yes.

11:07AM 25 Q. And do you understand that that term of supervised release

1 that I mentioned to you is served after any period of
2 incarceration? Do you understand that?

3 A. Yes.

4 Q. And do you understand that if you were to violate your
11:07AM 5 supervised release you could be returned to jail?

6 A. Yes.

7 Q. In addition, the plea agreement notes several other
8 matters for us that I want to specifically discuss with you
9 just briefly here today. First, the plea agreement notes that
11:07AM 10 one of the consequences of a conviction in this matter is that
11 you would have a victim restitution obligation, and in

12 paragraphs 25 and 26 of the plea agreement you've indicated
13 that you agree to a victim restitution obligation for \$50,000
14 for one victim in this case, and that you acknowledge as to
11:08AM 15 other victims that the Court may, in its discretion, order you
16 to make restitution. Do you understand, sir, that then as part
17 of any sentence in this case you will have restitution
18 obligations of at least \$50,000 and perhaps more? Do you
19 understand that?

11:08AM 20 A. Yes.

21 Q. In addition the plea agreement in paragraph 40 notes for
22 us that there are sex offender registration requirements under
23 federal and state law, and that upon completion of any sentence
24 you would be required to register as a sex offender and that if
11:08AM 25 you were not to register or update the registration as required

1 by law, that you could commit another federal offense and you
2 could be incarcerated again for a new federal offense. Do you
3 understand that?

4 A. Yes.

11:08AM 5 Q. In addition, paragraph 41 of the people notes for us one
6 other potential consequence of a guilty plea in this case,
7 which is that federal law provides for the civil commitment for
8 individuals who are deemed to be sexually dangerous offenders,
9 and in the plea agreement you acknowledge that one consequence
11:09AM 10 of your plea is that at some time in the future you may face
11 such civil commitment proceedings. No one can predict today
12 whether that will happen or when it might happen, but it is
13 important for you to understand that that is one other
14 potential consequence of a plea to these charges. Do you
11:09AM 15 understand that?

16 A. Yes.

17 Q. In addition, in terms of discussing these criminal
18 penalties in this case do you understand that there are
19 sentencing guidelines that Judge Kane must consider and may
11:09AM 20 follow when it comes time to sentencing you?

21 A. Yes.

22 Q. And have you and Mr. Lord or anyone else discussed those
23 guidelines and how they might work in your case?

24 A. Yes.

11:10AM 25 Q. And has Mr. Lord or anyone provided you with an estimate

1 of those guidelines?

2 A. Yes.

3 Q. I would fully expect counsel to provide you such an
4 estimate as part of due diligence in this process, but I want
11:10AM 5 to note something for you very important about any estimate
6 that you receive. Any estimate you receive is just that, an
7 estimate, and it is not binding on the Court, which will have
8 to make its own findings regarding the guidelines. So if you
9 have received an estimate and if the Court determines the
11:10AM 10 guidelines to be different than that estimate, you'll still be
11 bound by this plea. Do you understand that?

12 A. Yes.

13 Q. Do you also understand that a prior conviction could
14 affect your sentencing guidelines?

11:10AM 15 A. Yes.

16 Q. Now, what will happen in your case if your plea is
17 accepted, Mr. Lane, is that a presentence report will be
18 prepared. That report will provide a complete background on
19 your social history and criminal history and the like. It will
11:11AM 20 also describe your alleged role in this offense and it will
21 provide a tentative guideline calculation.

22 Mr. Lane, you will see that report in draft a long
23 with Mr. Lord and government counsel well before Judge Kane
24 ever sees the report, and if there is anything in that report
11:11AM 25 that you think is wrong, you have the right to object to it.

1 And objections that cannot be resolved by the parties will be
2 resolved by Judge Kane at a hearing, where typically the
3 government will have to prove what's in that report. Mr. Lane,
4 this is a process that is set up to protect your rights, sir,
11:11AM 5 but if at the end of that process the guidelines turn out to be
6 different or higher than you expected, you'll still be bound by
7 this guilty plea. Do you understand that?

8 A. Yes.

9 Q. And of course, Mr. Lane, in no instance can the guidelines
11:12AM 10 or any sentence exceed the maximums that we discussed here
11 today. Do you understand this?

12 A. Yes.

13 Q. And do you understand that one consequence of a guilty
14 plea may be that you will be required to provide a DNA sample
11:12AM 15 to the government. Do you understand that?

16 A. Yes.

17 Q. Do you also understand that these guidelines that we're
18 talking about are advisory only. So in some instances the
19 Court has the right to impose a sentence that departs from the
11:12AM 20 guidelines. It can be either above or below the guidelines.

21 Do you understand that?

22 A. Yes.

23 Q. Of course in no instance can the Court impose a sentence
24 below the mandatory minimums. Do you understand that?

11:12AM 25 A. Yes.

1 Q. And do you understand that there is no parole in the
2 federal system, so if you're sentenced to a term of months in
3 prison, you will have to serve that period of time and you
4 cannot be released early on parole. Do you understand that?

11:12AM 5 A. Yes.

6 Q. The plea agreement also has some provisions in it relating
7 to forfeiture of certain equipment involved, allegedly involved
8 in this conduct. Do you understand that as part of your plea
9 agreement in this matter you have agreed to cooperate in the
10 forfeiture of certain assets and equipment?

11:13AM

11 A. Yes.

12 Q. And that that is a material aspect of your plea. Do you
13 understand that?

14 A. Yes.

11:13AM 15 Q. Moreover, directing your attention to paragraph 44 of the
16 plea agreement, as I understand it this is a conditional plea.
17 You have agreed to plead guilty while preserving your right to
18 seek appellate review of pretrial rulings made by the district
19 court on suppression motions. Do you understand that while you
20 are pleading guilty, you are preserving this appellate right?

11:13AM

21 A. Yes.

22 Q. And that should you prevail on appeal you would be
23 entitled to withdraw your guilty plea. Do you understand that?

24 A. Yes.

11:14AM 25 Q. It is also my understanding that you have not otherwise

1 waived any of the appellate rights you may have relating to a
2 sentence in this case. Is that your understanding as well,
3 sir?

4 A. Yes.

11:14AM 5 Q. Then with everything we have gone over at this time
6 relating to the plea agreement, the nature of the rights that
7 you have in connection with this case and the nature of the
8 charges, is it still your desire to plead guilty?

9 A. Yes.

11:14AM 10 Q. And are you pleading guilty because you are in fact guilty
11 of these charges?

12 A. Yes.

13 Q. Do you have any questions of me regarding anything of
14 matters we've gone over?

11:14AM 15 A. No.

16 THE COURT: Then, counsel, before I turn to the
17 factual basis for the plea, are there any other areas that
18 counsel would ask me to inquire into with Mr. Lane? Anything
19 from the United States?

11:14AM 20 MS. TAYLOR: No, Your Honor.

21 THE COURT: And Mr. Lord?

22 MR. LORD: Nothing from the defense, Your Honor.

23 THE COURT: Very well.

24 MR. LORD: You covered everything thoroughly.

11:14AM 25 THE COURT: Well, this is an important event for

1 Mr. Lane and I wanted to make sure that we covered everything
2 thoroughly in that regard. Mr. Lane, as we have noted, you're
3 charged in this indictment with charges relating to the
4 production of child pornography, the receipt and distribution
11:15AM 5 of child pornography and publishing notices seeking child
6 pornography.

7 Those are the charges, substantive and conspiracy
8 charges set forth in Counts 9 through 14 of the superseding
9 indictment. I'm going to ask the United States to tell us what
11:15AM 10 evidence it would have presented at a trial in this case, and
11 I'll ask you to pay very close attention, because when
12 government counsel gets done reciting the facts, I'm going to
13 ask if that's what you did, and then I'll ask how you plead.
14 Ms. Taylor?

11:15AM 15 MS. TAYLOR: Your Honor, we have prepared a written
16 factual basis in this case which we have signed, as well as the
17 defendant and his attorney. I believe we submitted the
18 original to the Court, but with the Court's permission I would
19 ask if Mr. Berry could put the factual basis on the record.

11:16AM 20 BY THE COURT:

21 Q. And I'd be delighted to do that. Let me though just note
22 we have received something called a factual basis, Mr. Lane.
23 And did you have a chance to read that factual basis over?

24 A. Yes.

11:16AM 25 Q. And did you and counsel have a chance to carefully review

1 that factual basis for accuracy?

2 A. Yes.

3 Q. And have any concerns or questions you had about the
4 accuracy of this factual basis been fully resolved to your
11:16AM 5 satisfaction?

6 A. Yes.

7 Q. And then you have signed an acknowledgment page at the end
8 of this factual, have you not, sir?

9 A. Yes.

11:16AM 10 Q. And in that do you acknowledge, sir, that the factual
11 basis that is set forth in this document which will be filed as
12 part of the record in this case is a full complete and accurate
13 account of your involvement in this conduct?

14 A. Yes.

11:17AM 15 THE COURT: Very well. And having said that,
16 Mr. Berry, I'll be pleased to turn to you and have you recite
17 the factual basis for us.

18 MR. BERRY: Sure, Your Honor. Is it your practice
19 would you like me to read it verbatim or may I summarize the
11:17AM 20 facts as we go through them?

21 THE COURT: My practice is to defer to your practice
22 and preference. What I would note is Mr. Lane has just told me
23 upon his oath that he's read through the entire document and
24 that he's carefully reviewed it and that every aspect of it is
11:17AM 25 full, complete, and accurate. Is that right, Mr. Lane?

1 THE DEFENDANT: Yes.

2 THE COURT: That being the case, a summary may suffice.
3 But I leave that to your discretion.

4 MR. BERRY: Then that's what I'll do, Your Honor.

5 THE COURT: Very well.

6 MR. BERRY: Just for the record and so that, I know
7 Your Honor has taken pleas in this case I think from some of
8 the other defendants, this is basically the same factual basis
9 that has been put in the other defendants' cases with regards
11:17AM 10 to paragraphs 1 through 10.

11 THE COURT: Yes, the description of Application A and
12 its operation and the like.

13 MR. BERRY: So basically what 1 through 10 do is
14 summarize what Application A is, which is the moniker that we
11:18AM 15 had given to video conferencing platform that is the subject of
16 this case, and we have called it that because it's still
17 subject to an ongoing undercover operation, and that it
18 basically describes that platform, how it works and how it
19 operates, and then it goes to July 22nd, 2015 when a Toronto
11:18AM 20 undercover was working on that application platform and
21 observed an event in which a six-year-old child was sexually
22 abused by defendant Augusta, who resided here in the Middle
23 District of Pennsylvania.

24 Paragraph 10, I believe paragraph 10 includes several
11:18AM 25 pages of direct verbatim chat logs from that prerecorded and

1 live event that occurred on July 22nd, 2015. After paragraph
2 10, starting at paragraph 11 it moves to more specific facts
3 related to this particular defendant Scott lane, and in
4 paragraph 11 it talks about how on April 12th, 2016 Homeland
11:19AM 5 Security executed a search warrant at Mr. Lane's residence in
6 New York and interviewed him there, and in that interview Mr.
7 Lane made some statements about how he didn't comfortable
8 discussing what he had seen on there and that he said that, you
9 know, when asked whether he didn't care about the little boy,
11:19AM 10 he said, "That's not true, I can't help you. I'm being selfish
11 and I don't know the law," but that now Mr. Lane admits that in
12 fact he did observe what occurred on July 22nd, 2015 with the
13 six-year-old boy being sexually abused by Augusta.

14 The factual basis then moves on and talks about some
11:20AM 15 of the specifics with regards to Lane's logging in to this
16 Application A room and that he was there for approximately
17 fifty-three minutes on July 22nd, 2015, and that he observed
18 this abuse occurring from approximately 1900 Eastern Time to
19 1922.

11:20AM 20 In addition, the factual basis in paragraph 14 states
21 that defendant Lane utilized the alias of *NYCperv*, and that was
22 the user name that we would see in the chat logs up above in
23 paragraph 10 detailing what was said by whom, and *NYCperv's*
24 comment's there would be defendant Lane's comments, which
11:20AM 25 include some of the comments he used, which was, "Make out with

1 him, fuck him, and show more face," that we have included in
2 the factual basis.

3 In addition there were private messages that
4 defendant Lane sent to defendant Augusta on the application
11:21AM 5 platform that included additional requests and questions to
6 Augusta about his sexual abuse of the six-year-old child.

7 Paragraph 15 moves on to the forensic analysis of
8 defendant Augusta's -- defendant Lane's devices, and talks
9 about the different files that were located on his device that
11:21AM 10 were related to child pornography, including file titles such
11 as "SixYO Enjoy Dad's Cock," another video called "Andy 4YO
12 Anal," and another video called "Toddler Rape." In addition
13 there were other videos that the forensic analysis on his
14 device revealed that depicted a child under the age of two
11:21AM 15 being sodomized by an adult male.

16 Paragraphs 16, 17, 18, 19, and 20, and 21, are broken
17 down by specific counts and incorporate all of the facts that
18 were included in paragraphs 1 through 15. So those are
19 basically effectively imported into each of those paragraphs
11:22AM 20 and then go on to include additional facts that are specific to
21 those individual charges.

22 For example, Count 16 -- paragraph 16 talking about
23 Count 9 references the fact that defendant Lane admits that he
24 and other codefendants assisted codefendant Augusta in the
11:22AM 25 production of those sexually explicit image of Victim One by

1 their comments and continuation in that room and encouragement
2 of him to abuse the boy.

3 Paragraph 17 refers to Count 10 and further states
4 that Lane acknowledges that he entered into an agreement, part
11:22AM 5 of the conspiracy requirement, by frequenting the same rooms on
6 Application A where it was known that people interested in
7 viewing such images and transmissions of sexual abuse would
8 congregate, that it was not the only time that he had ever been
9 there effectively is what that says.

11:23AM 10 Paragraph 18, Count 11, discusses that during the
11 time frame of the conspiracy Lane and other codefendants agreed
12 to receive and distribute such sexually explicit images of
13 children by frequenting the same rooms and expressly requesting
14 that someone play such videos.

11:23AM 15 Paragraph 19, Count 12, additionally adds, or adds
16 that Lane and other defendants assisted each other by
17 congregating in these rooms, often times with their cams on in
18 an effort to create what appeared to be a trusted environment
19 so that everyone would share such videos.

11:23AM 20 Paragraph 20 refers to Count 13 and discusses
21 specific comments and requests that people made, such as his
22 codefendant Marquez, who asked if anyone had any hot baby vids
23 and other defendants' comments and requests. Specifically Lane
24 commented prior to the live event, "Is anyone showing vids?"

11:24AM 25 And then he also made a bunch of comments during the live event

1 that are listed in paragraph 10. And then in addition to that
2 after the live event he made additional comments further
3 encouraging people to produce or stream videos and again
4 requesting, "Anyone have vids?"

11:24AM 5 Paragraph 21, Count 14, discusses the substantive
6 advertising charge and again talks about the request or the
7 comments made by Lane on July 22nd about, "Anyone showing
8 vids?" and "Let's see some fucking." In addition the forensic
9 analysis of Lane's devices, including his I-Pad and I-Phone,
11:24AM 10 show that as far back as October of 2014 he was encouraging
11 other users to "Go in your boy's room, let's jerk off there,"
12 and then he said, told another user, "I definitely got porn and
13 I can share, and money to pay you, fly you out here to fuck me
14 and nephew . "

11:25AM 15 In addition, and finally, on one occasion messaging
16 an individual and said, "Is it uber bad if I say I want to see
17 you pound a fifteen year old?" And that is the end of the
18 factual basis summary, Your Honor.

19 THE COURT: Mr. Lane, you've had a chance to read the
11:25AM 20 complete factual basis and have heard the summary here that's
21 been presented in open court. Is there anything in that
22 factual basis, written or summarized here in open court, that
23 you disagree with, sir?

24 MR. LORD: Your Honor, if I may interrupt? My client
11:25AM 25 did whisper to me during the presentation, I was wondering if I

1 could have a few minutes to talk to him.

2 THE COURT: Oh, certainly. That would be fine. Why
3 don't you do that?

4 MR. LORD: Thank you.

11:26AM 5 THE COURT: You bet. Why don't you just have a seat,
6 take your time.

7 MR. LORD: Thank you, Your Honor.

8 (Discussion held off the record.)

9 MR. LORD: We're prepared to come forward, Your Honor.

11:28AM 10 THE COURT: Why don't we come on forward then.

11 MR. LORD: Kevin, do you want the plea agreement back?

12 THE COURT: Mr. Lane, I appreciate you doing exactly
13 what I had asked you to do earlier in the proceeding. That is
14 take a moment and chat with your counsel if there was any

11:28AM 15 question or concern that you might have. Mr. Lord, was there
16 anything we need to address?

17 MR. LORD: No, Your Honor.

18 BY THE COURT:

19 Q. Then let me just ask you again, Mr. Lane, with respect to
11:28AM 20 the factual basis of the plea that's been outlined here in
21 court and that is contained in the written document that you
22 have signed, am I correct in my understanding that you have
23 carefully reviewed that written document and that it is full,
24 complete, and accurate, is that correct?

11:28AM 25 A. Yes.

1 Q. And do you have any quarrel with anything set forth in
2 that factual basis or anything that was recited here in open
3 court summarizing that factual basis?

4 A. No.

11:28AM 5 Q. Very well. Then with respect to the charges set forth in
6 Counts 9, 10, 11, 12, 13, and 14 of the superseding indictment,
7 which charge you with production of child pornography,
8 conspiracy to produce child pornography, conspiracy to receive
9 and district child pornography, receipt and distribution of
11:29AM 10 child pornography, conspiracy to publish a notice seeking child
11 pornography, and publication of a notice seeking child
12 pornography, how do you plead, sir? Are you guilty or not
13 guilty?

14 A. Guilty.

11:29AM 15 THE COURT: Very well. I make the following findings
16 and will recommend that Judge Kane make these findings as well.
17 First, I find that Mr. Lane is fully competent and capable of
18 entering an informed guilty plea to these charges. I find that
19 he is aware of the nature of the charges and the consequences
11:29AM 20 of his guilty pleas.

21 I also find that his pleas of guilty to these charges
22 are knowing and voluntary, and the pleas are supported by an
23 independent basis in fact, containing each of the essential
24 elements of the offenses charged. I also find, Mr. Lane, that
11:30AM 25 no promises have been made to you beyond those set forth in the

1 plea agreement, and that no one has threatened you in any way
2 to induce the entry of a guilty plea in this case.

3 Therefore I find and will recommend that Judge Kane
4 find that Mr. Lane should be adjudged guilty of Counts 9, 10,
11:30AM 5 11, 12, 13, and 14, and that this matter should proceed to
6 sentencing proceedings. On that score, Mr. Lane, I had
7 mentioned to you that you'll see a presentence report in draft
8 before Judge Kane ever does. Will the probation office be able
9 to provide Mr. Lane with a copy of that report by March 8th?

11:30AM 10 PROBATION OFFICER: Yes, Your Honor.

11 THE COURT: Then I'm going to order that a copy be
12 provided to you, sir, by March 8 so that you and your counsel
13 and government counsel can review the report for accuracy.
14 Judge Kane will then set this matter down for sentencing
11:31AM 15 sometime on or about April 19, but you'll get a separate notice
16 to that effect. Is there anything further that we can do here
17 today on behalf of the United States?

18 MS. TAYLOR: Your Honor, there was one, one other
19 issue I wanted to bring to the Court's attention. On the plea
11:31AM 20 agreement there was one error in the caption which I did not
21 catch before we handed it up to the Court. The plea agreement
22 itself has on the caption that it's requesting that it be filed
23 under seal, and we actually did not include a motion for it to
24 be filed under seal and that annotation should have been taken
11:31AM 25 off. But it's not being filed under seal.

1 THE COURT: And absent a motion to seal we would not
2 otherwise seal the plea agreement. I appreciate that notation.
3 Government counsel is just noting for us, Mr. Lane, that this
4 plea agreement, being a public record and a public proceeding,
11:32AM 5 will be filed on the open record and won't be sealed in any
6 way. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Fair enough. Is there anything further on
9 behalf of the defendant, Mr. Lord?

11:32AM 10 MR. LORD: No, Your Honor.

11 THE COURT: We'll stand in recess. Counsel, can I see
12 you briefly at side bar?

13 (Hearing concluded at 11:32 a.m.)
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CERTIFICATE OF OFFICIAL COURT REPORTER

USA vs. Scott Lane

1:16-CR-00082-MCC/YK-03

Change of Plea Hearing

11 January 2018

I, Wesley J. Armstrong, Federal Official Court Reporter, in and for the United States District Court for the Middle District of Pennsylvania, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 14th day of May 2021

/s/ Wesley J. Armstrong

Wesley J. Armstrong

Registered Merit Reporter